

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

CHRISTOPHER SCOTT EMMETT,

Plaintiff,

v.

Case No. 3:07CV227

**GENE M. JOHNSON, Director,
Commonwealth of Virginia
Department of Corrections**

**GEORGE M. HINKLE, Warden,
Greensville Correctional Center, and**

**LORETTA K. KELLY, Warden,
Sussex I State Prison,**

Defendants.

PROTECTIVE ORDER

The pleadings and arguments of the parties having been heard and considered, it is accordingly adjudged and ordered as follows:

1. The parties, their counsel, and agents recognize that Virginia Department of Corrections Division Operating Procedure 426 Execution Manual ("DOP 426") is a confidential document that addresses confidential security procedures of the Virginia Department of Corrections ("VDOC"). These security procedures protect the safety and welfare of VDOC staff as well as the death-row inmates.

2. These Defendants, by their counsel, shall provide Plaintiff's counsel of record all relevant sections from DOP 426.

3. Plaintiff's counsel of record and trial experts must first execute and return the confidentiality agreement (See the Confidentiality Agreement incorporated into this

Order by reference and attached as Exhibit A) before obtaining a copy of the DOP 426 from the Office of the Attorney General.

4. The only individuals permitted to retain one (1) copy each of the relevant portions of DOP 426 are counsel of record and trial experts. Both counsel of record and designated trial experts must sign a properly executed confidentiality agreement prior to release of DOP 426 to them. Counsel of record is not to disclose the substance of DOP 426 beyond their immediate assistants and trial experts. See the Confidentiality Agreement incorporated into this Order by reference and attached as Exhibit A.

5. Plaintiff's counsels and trial experts are to limit the utilization of DOP 426 to purposes specifically germane to the above-captioned lawsuit. No additional copies beyond the ones provided for in provision 3 of this Protective Order are to be made or disseminated, except to use in court as an exhibit filed under seal. DOP 426 is not to be transmitted by any electronic means.

6. DOP 426 is not to be disclosed or distributed, in oral or written form, to any incarcerated person or previously incarcerated person, including Plaintiff Christopher Scott Emmett. DOP 426 is not to be disclosed or distributed, in oral or written form, to any member of any advocacy organization, institution of learning or its publications, or the media. Information that is public in *Walker v. Johnson*, Case No. 1:05cv934 (E.D. Va. 2006) are exempt from this Order.

7. Any copies of the DOP 426 filed with the Court shall be filed under seal. Any copy of DOP 426 utilized as an exhibit at trial will also be placed under seal.

8. In the event that counsel of record become aware that DOP 426 has been disclosed by theft or other means beyond their control, counsel must immediately notify

the Chief of the Correctional Litigation Section at the Virginia Office of the Attorney General.

9. All copies, including copies in the possession of counsel of record, of DOP 426 will be returned to the Virginia Office of the Attorney General immediately at the close of this litigation, which includes any appeal and/or petition for writ of certiorari, or after the execution of the Plaintiff, whichever comes first.

10. Once this litigation and all possible appeals have been concluded, Plaintiff's counsel and those privy to DOP 426, or a copy thereof, through this litigation, **shall not disclose, in oral or written form, deliberately or inadvertently**, those documents described in this Protective Order without a court order or the agreement of counsel for the VDOC Defendants.

Entered: / /

Judge

We ask for this:

_____/s/_____
Richard C. Vorhis, SAAG, VSB #23170
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